

AN ACT

ENTITLED, An Act to revise certain provisions relating to out-of-country foreign judgments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. An out-of-country foreign judgment need not be recognized and entitled to full faith and credit in the State of South Dakota, unless there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the defendant, and under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of the State of South Dakota should not allow it full effect.

Section 2. In deciding whether to enforce and recognize an out-of-country foreign judgment, the court shall consider the following factors when deciding whether to enforce and recognize a out-of-country foreign judgment, to wit:

- (1) The foreign court actually had jurisdiction over both the subject matter and the parties;
- (2) The judgment was not obtained fraudulently;
- (3) The judgment was rendered by a system of law reasonably assuring the requisites of an impartial administration of justice which includes due notice and a hearing;
- (4) The judgment did not contravene the public policy of the jurisdiction in which it is relied upon; and
- (5) The jurisdiction issuing the order or judgment also grants comity to orders and judgments of South Dakota courts.

Section 3. In matters concerning defamation, the court, before it recognizes an out-of-country foreign judgment, shall by clear and convincing evidence, find that the law applied in the foreign

court's adjudication, which resulted in a judgment, provided at least as much protection for freedom of speech and the press as would be provided by the United States Constitution and the Constitution of the State of South Dakota, in addition to the criteria set forth in section 2 of this Act.

Section 4. This Act applies to judgments rendered in defamation proceedings outside the United States before, on, or after July 1, 2013, but does not apply to any out-of-country foreign judgment already recognized by the courts of this state prior to July 1, 2013.

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I certify that the attached Act
originated in the
SENATE as Bill No. 174

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 174
File No.
Chapter No.

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Received at this Executive Office
this ___ day of ___,
20___ at ___ M.

By ___
for the Governor

The attached Act is hereby
approved this ___ day of
___, A.D., 20___

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed ___, 20___
at ___ o'clock ___ M.

Secretary of State

By ___
Asst. Secretary of State